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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,439	08/01/2001	Hideki Kato	110287	4747
25944	7590	01/12/2004	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			BERNATZ, KEVIN M	
			ART UNIT	PAPER NUMBER
			1773	
DATE MAILED: 01/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Advisory Action

Application No.

09/918,439

Applicant(s)

KATO ET AL.

Examiner

Kevin M Bernatz

Art Unit

1773

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1,3,4,7 and 8.

Claim(s) withdrawn from consideration: none.


8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

plw
12/17/03

Continuation of 3. Applicant's reply has overcome the following rejection(s): the rejection of claims 1, 3, 4, 7 and 8 under 35 U.S.C. 102(e) over Hamada et al. ('681 A1) and claim 1 under 35 U.S.C. 112, 1st Paragraph. The rejection under Hamada et al. has been overcome since applicants have perfected their priority date by the submission of a certified English Translation of the Foreign Priority Document. The rejection based on a new matter issue has been overcome since applicants' amendment have removed the language which necessitated the new matter rejection.

Continuation of 5. does NOT place the application in condition for allowance because: applicants argue that Li and Inoue et al. are not analogous art and are therefore not combinable to read on the claimed invention. The Examiner respectfully disagrees.

The Examiner notes that both Li and Inoue et al. are directed to optical devices. Inoue et al. teach substantially an identical structure as applicants' claimed invention, including alternating dielectric layers having different index of refraction (n) values (Paragraph 0093). Inoue et al. desire both low reflectance (i.e. high transmittance) and a wide operating range in wavelength (Paragraphs 0135 and 0141 and Figure 24). Li teaches that using alternating layers of dielectric materials with different n values, preferably Si/SiO₂, produces optical films useable in a wide range of optical devices which have near 100% transmittance and extremely broad useable wavelengths (col. 4, lines 11 - 24; col. 5, line 56 bridging col. 6, line 31 and col. 7, lines 62 - 67). Li further teaches the exact mathematical equations related to this process and why the different index of refractions bring about the improved properties (col. 6, line 40 bridging col. 9, line 2). Given that Inoue et al. disclose all the claimed limitations except the exact choice of materials and Li provides the mathematical basis for selecting dielectric materials alternating in their index of refraction values as well as teaching that they have improved properties desired by Inoue et al., the Examiner deems that one of ordinary skill in the art would have recognized the teachings of Li and Inoue et al. as analogous. As such, Li provides an explicit teaching to select the claimed dielectric materials.


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Technology Center 1700